

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

JAMES D. BRADY,	:	CIVIL DIVISION
	:	
Plaintiff,	:	
	:	Civil Action No.: 2:22-cv-766
v.	:	
	:	
WALMART, INC.; WALMART	:	<i>Electronically Filed</i>
SUPERCENTER #2588; and JANE DOE	:	
c/o WALMART SUPECENTER #2588,	:	
	:	
Defendants.	:	

NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the Western District of Pennsylvania

This Notice of Removal is filed by Defendants, Walmart Inc., and Walmart Supercenter #2588, (hereinafter collectively “Walmart”) asserting as follows:

1. The above-described action was commenced by the filing of a Complaint on or about April 21, 2022 in the Court of Common Pleas of Allegheny County, Pennsylvania, against Defendants, Walmart Inc., Wal-Mart Supercenter #2588, and Jane Doe c/o Walmart Supercenter #2588. (A true and correct copy of the Complaint is attached hereto as Exhibit “A”.)

2. Plaintiff served Defendant, Walmart Inc., with a copy of the Complaint on April 25, 2022. Although no Affidavit of Service has been filed, the certified tracking receipt accompanying the Complaint lists the delivery date as April 25, 2022. (*See* USPS Tracking Details attached hereto as Exhibit “B”.)

3. Plaintiff served Defendant, Walmart Supercenter #2588, via Sheriff on May 17, 2022. (*See* Sheriff’s Return of Service attached hereto as Exhibit “C”.)

4. Walmart Inc., formerly known as Wal-Mart Stores, Inc., is a Delaware corporation with a principal place of business in Bentonville, Arkansas.

5. Walmart Supercenter #2588 is not a legal entity, but rather, the designation of a Walmart store located at 100 Walmart Drive, North Versailles, Allegheny County, PA 15137.

6. Defendant Jane Doe is an unknown individual who is alleged to be an employee of Walmart. See Exhibit A, ¶4.

7. Defendant Jane Doe has not been served.

8. The consent of the Jane Doe is not required because the rule of unanimity does not extend to fictitious parties. See Ortiz v. Del. River Port Auth., No. 09-06062, 2010 U.S. Dist. LEXIS 39633, *8 n.1 (E.D. Pa. April 22, 2010) (citation omitted) (explaining that a fictitious “Jane Doe” defendant is an unknown defendant whose consent is not required for removal).

9. Walmart believes that at the time this action was initially commenced, and at the current time, Plaintiff was a resident of Ohio. See Exhibit A, ¶ 1.

10. Plaintiff’s Complaint seeks an award in excess of the Allegheny County arbitration limits (\$50,000.00), but no specific sum is demanded in the Complaint.

11. Among other injuries, it is understood that Plaintiff claims damages for a serious injury allegedly sustained as a result of being pinned between pallets, as well as pain and suffering. See Exhibit A, ¶ 10-14.

12. Based on these alleged injuries and damages, Plaintiff’s counsel has advised the undersigned counsel that this case is valued in excess of \$75,000.00.

13. This Notice of Removal is filed within thirty (30) days after Defendant, Walmart Inc., was served with a copy of Plaintiff’s Complaint on April 25, 2022, which apprised these

Defendants of the amount in controversy, and within one (1) year of the commencement of this matter by Plaintiff on April 21, 2022 by the filing of the Initial Complaint; thus, it is timely filed pursuant to 28 U.S.C. §1446(b) (3) and (c).

14. As all of the joined and served parties to this action are diverse, the consent of Jane Doe, an unknown defendant, is not required, and the amount in controversy exceeds \$75,000, this Court has original jurisdiction under the provisions of 28 U.S.C. §1332 and this case may be removed to this Court by these Defendants pursuant to the provisions of 28 U.S.C. §§1441 and 1446.

WHEREFORE, Defendants, Walmart Inc. and Walmart Supercenter #2588, request that this action now pending in the Court of Common Pleas of Allegheny County at No. GD 22-4587 be removed to this Honorable Court.

JURY TRIAL IS DEMANDED.

Respectfully submitted,

THOMAS, THOMAS & HAFFER LLP

Date: 05/24/2022

BY: /s/ Rebecca Sember Izsak
REBECCA SEMBER IZSAK, ESQUIRE
PA ID No. 74584
rseember@tthlaw.com
U. S. Steel Tower
600 Grant Street, Suite 2600
Pittsburgh, PA 15219
(412) 697-7403
(412) 697-7407 – Facsimile

*Counsel for the Defendants, Walmart Inc. and
Walmart Supercenter #2588*

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